



Washington State
Department of Health
Podiatric Medical Board
Meeting Minutes
April 19, 2007

The meeting of the Washington State Podiatric Medical Board was called to order by David Bernstein, DPM, Chair, at 1:15 p.m. The meeting was held at the Hilton Vancouver, 301 W. 6th Street, Vancouver, Washington 98660.

Board Members

Participating:

David Bernstein, DPM, Chair
Stewart Brim, DPM, Vice Chair
James Porter, DPM
Amy Wong, Public Member

Staff Participating:

Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Dori Jaffe, Assistant Attorney General
Erin Obenland, Disciplinary Program
Manager
Joe Mihelich, Administrative Staff

Guest:

Beverly Thomas, Program Manager, Medical
Quality Assurance Commission

Public Attendees:

Susan Scanlan, DPM, Executive Director,
Washington State Podiatric Medical
Association
Nick Tanner, DPM

OPEN SESSION

1. Call to Order

1.1 Approval of Agenda

The agenda was approved with one modification. 5.3.1
Letter from National Board of Podiatric Medical
Examiners

1.2 Approval of Minutes - January 18, 2007

The January 18, 2007 minutes were approved as
submitted.

1.3 Approval of Conference Call Minutes - February 8, 2007

The February 8, 2007 conference call minutes were approved.

- 1.4 Approval of Conference Call Minutes - March 8, 2007
The March 8, 2007 conference call minutes were approved.

- 1.5 Approval of Conference Call Minutes - March 29, 2007
The March 29, 2007 conference call minutes were approved.

2. Disciplinary Issues

- 2.1 Revised Disciplinary Guidelines Manual, including recommended sanctions - Presentation by Blake Maresh, Executive Director
ISSUE

Mr. Maresh reported on the ASPIRE activities that had initially contributed to development of the disciplinary sanction guidelines. Since adoption by the Secretary in May 2006, the guidelines have been used for sanctioning Secretary authority professions. All final orders for an eight month period were reviewed to assess whether the ordered sanctions fell within the guidelines. Sanction compliance for the Secretary authority professions ranged from 83%-100% using the guidelines. Compliance for Boards and Commissions sanctions ranged from 68%-87% during the same time period. Boards and Commissions were not using the sanctions guidelines for most of the time period.

The workgroup has received comments regarding use of the guidelines and have made modifications in several areas. The instructions for using the grids have been clarified. Using two grids simultaneously is also explained more in-depth. Examples are given regarding incorporating aggravating and mitigating circumstances in the orders or STIDs. The conduct, sanction range, and duration of the action have been clarified in several of the sanction categories.

ACTION

The Board accepted the revisions made to the sanction guidelines. Since the Board has not had an opportunity to use the guidelines, it approved incorporating the revisions during the remaining trial period.

- 2.2 Procedure 263: Reinstatement from Orders/Releases from STIDs upon completion - Consider whether to adopt procedure for podiatric cases.

2.2.1 PO 95-16: Review of Investigations by
Reviewing Board Member Recommending
Disciplinary Action or Further Investigation

ISSUE

The procedure establishes a uniform process for all disciplining authorities to release Respondents from terms of final orders or Stipulations to Informal Dispositions (STID) when the requirements have been completed.

ACTION

Since policy PO 95-16 provides that the reviewing board member will serve through the compliance period, Procedure 263 would complete the compliance process. The Board approved Procedure 263 be used for completion for orders and STIDs.

2.3 Consider rules to delegate complaint review and investigative decision-making to board staff

ISSUE

The Board was asked to consider adopting rules to delegate investigative decision-making to board staff.

ACTION

The Board discussed the pros and cons of board staff making investigative decisions for complaints. The Board felt by using their clinical expertise, complaints could be better evaluated and resources used more effectively. The Board will continue to review complaints. The issue will be reevaluated again in a year.

3. Practice Issues

3.1 Safe and Effective Office Based Surgery in Washington State - Presentation Beverly Thomas, MQAC Program Manager

ISSUE

Ms. Thomas provided background on development of office-based rules by the Medical Quality Assurance Commission (MQAC). Although MQAC began the rules process several years ago by looking at office-based surgery very broadly, the AAG advised MQAC only has authority over the practitioners. After two years of gathering input, MQAC approved guidelines in May 2005.

MQAC recognizes there are numerous benefits associated with performing surgery in office-based settings. However, very little data exists in Washington

regarding this area of practice. Some data has been obtained from other states and enforcement of the Dental Commission's rules for utilizing sedation/anesthesia in office-based procedures.

MQAC has continued to receive reports of adverse events in office-based settings. The most critical safety factor appears to be the administration of sedation/analgesia. MQAC has significant concerns about the increase of office-based surgery and associated risks in doing these procedures without any oversight. MQAC has decided to move forward with rules regulating anesthesia and analgesia by its practitioners using the dental rules as a model.

Ms. Thomas extended an invitation to the Board to coordinate the rules process with MQAC. A similar invitation has also been made to the Board of Osteopathic Medicine and Surgery. If the rule-making can be coordinated for all of the physicians who perform surgery, the final rules could be similar for all these practitioners.

Ms. Thomas invited the Board to join in a group discussion regarding office-based surgery with medical and osteopathic on May 30, 2007 in Renton. Ms. Thomas advised that more information regarding the outcome of ESHB 1414 would be available at that time. That bill would specifically give the three professions statutory authority to adopt rules relative to sedation and anesthesia in office settings as well as training and equipment requirements.

ACTION

The Board approved filing a CR101 to explore rulemaking. The Board also determined to join in the group discussions to coordinate rules development. If a board member is unable to attend, Ms. Robertson will attend and report back to the Board.

- 3.2 Scope of practice regarding podiatric physicians purchasing and administering vaccines - George Sotos, Merck & Co.

ISSUE

Correspondence from Mr. George Sotos, Merck & Co., was reviewed. The inquiry related to the scope of practice of a podiatric physician regarding purchasing and administering vaccines.

ACTION

The Board determined if the vaccine relates to diagnosis and the medical...treatments of the ailments of the human foot as specified in RCW 18.22.035 and WAC 246-922-001 Scope of Practice and does not treat a systemic condition, it would be within the scope of practice. For example, tetanus vaccine is commonly used by podiatric physicians in treatment of the foot. However, flu vaccines would not be within their scope of practice to administer.

- 3.3 Orthotics Prescribing/Dispensing Issues - Identify discussion points for coordination meeting with other affected professions and unlicensed practice.

ISSUE

The Board discussed the delay in filing the CR101 for the orthotic device rules. The Policy Office has concerns that other professions would be impacted by the rules. The Board has been asked to provide more specific information on the intent of the rules to other professions before proceeding with the CR101.

ACTION

The Board is disappointed that the rules process has been put on hold. It was the Board's understanding that the CR101 should be filed prior to any discussions or information gathering regarding the content of the rules. The Board is aware that other professions who either prescribe and/or dispense orthotic devices will need to be kept advised of the rules as they are developed.

Dr. Bernstein will be able to meet with Department of Health program staff to inform them of the issues the Board is trying to address in the rules. A May 23, 2007 meeting has been scheduled. Dr. Bernstein will also be available to provide information and answer questions at other profession's meetings, as his schedule permits.

The Board requested that the CR101 move forward while it is performing its outreach with the other professions. Mr. Maresh will share the Board's request with the Policy Office staff to work on the two issues simultaneously.

4. Licensing Issues

- 4.1 PO 95-34 CE Audits/approved and non-approved courses/Action taken for non-compliance - Review approved modifications to the continuing education policy to address Internet courses as meeting the CE requirements.

ISSUE

The revised policy on Continuing Education Audits/Approved and Non-approved courses/action taken for Non-compliance was reviewed. In addition to the internet courses, other minor changes were also made to reflect procedural changes.

ACTION

The policy was approved. Terms related to the reporting period will be changed to be consistent throughout the policy.

5. Program Manager Reports

5.1 Budget Report

Ms. Robertson reported that the budget does not reflect any significant new expenses. Overall expenditures are under the biennial projection.

5.2 Washington Physicians Health Program
February 2007 Statistical Information

The WPHP report was provided as information only.

5.3 The National Board of Podiatric Medical Examiners
Newsletter - Report on examination

Updated information on the NBPME examinations was shared with the board members.

5.3.1 Letter from National Board of Podiatric
Medical Examiners

Dr. Brim indicated he had received a letter from National Boards asking for volunteers to work on examination development and score validation. National Boards can be contacted for more information.

6. Executive Director Reports

6.1 Department/Division Updates

Mr. Maresh reported that most of the field audits have been completed for the Department of Health audit. The final report is expected in June.

Mr. Maresh reported that the ILRS project continues to be on time for coming on line in 2008. The imaging project is also ongoing.

The AAG's office has petitioned the Supreme Court for review of the Ongom case.

6.2 Legislative Session Report/Updates

Mr. Maresh reported that most of the 2007 Legislation did not make it through the session. If ESHB 1414 passes it would impact the Board by granting authority to write rules relative to sedation and anesthesia, including training and equipment requirements.

6.3 Citizen Advocacy Center Annual Meeting in Seattle

Mr. Maresh reported that the Citizen Advocacy Center will be holding its annual meeting in Seattle, October 29-31, 2007. He asked board members to consider attending. The meeting would be an opportunity to share views with peers from other states. More information will be provided as it becomes available.

7. (Open Session) Settlement Presentations

(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)

There were no settlement presentations.

CLOSED SESSION

8. Investigative Authorizations

ACTION

Four complaints were reviewed and authorized for investigation.

9. Disciplinary Case Reviews - Reviewing Board Member Reports

CASE NUMBERS

2006-10-0002PO

2006-10-0006PO

CASE DISPOSITION

Closed no cause for action; care rendered was within the standard of care

Closed no cause for action; care rendered was within the standard of care

2006-12-0001PO Closed no cause for action; care
 rendered was within the standard of care
2006-12-0002PO Closed no cause for action; care
 rendered was within the standard of care

10. Stipulation to Informal Disposition Presentations
(Presentations are contingent upon agreements being reached
between the parties prior to a board meeting.)

There were no STID presentations.

11. Compliance Reports

There was no compliance report.

12. Open Case Report

The open case report was provided.

13. Application Review

There were no applications for review.

The meeting adjourned at 6:30 pm.

Respectfully Submitted

Arlene Robertson
Program Manager

NOTE: PLEASE VISIT THE PODIATRIC MEDICAL BOARD'S WEB SITE FOR FUTURE AGENDAS AND MINUTES. WWW.DOH.WA.GOV , GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH PROFESSIONS, GO TO PODIATRIC PHYSICIANS FOR AGENDAS AND MINUTES.
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